IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.741 OF 2007
Along with
Civil Application No.1367 of 2007

Raghunath Putla Patil and ors. .. Appellants.
vs
Mothabhhau Babaji Yalij and Anr .. Respondents

Mr M.B.Shirsat, for the appellants.

CORAM : D.B.BHOSALE,J.
DATED : 23rd October, 2007

P.C.:

1. Heard the learned counsel for the parties.

2. By this Second Appeal, the appellants have impugned the judgments of the courts below, by which a suit filed by the respondents-plaintiffs for possession of the suit property on the basis of title has been decreed. The Courts below, after having considered the sale deed dated 21.6.1985 executed by one Nanaji in favour of the plaintiffs, have held that the plaintiffs are the owners of the suit field, Gat No.169-A, and they were unlawfully dispossessed in 1985 by the defendants. Mr.Shrisat, learned counsel for the appellants, challenged the judgments of the courts below mainly on the ground that the suit is bad for nonjoinder of one Babaji Nathu from whom they claimed to have purchased the suit property. It is submitted that Babaji Nathu had sold this property to the defendants and by virtue of that sale-deed they are the

owners of the suit property and their possession in respect thereof is legal. He submitted that the courts below have completely overlooked the pleadings of the defendants wherein they have disputed that the property was ever owned by Babaji Nathu alias Babaji Tulshiram. From the facts as disclosed from the judgments of the courts below it reveals that Babaji Tulshiram had sold the suit property to one Nanaji who, in turn, sold it to the wife of Babaji Tulshiram vide registered sale deed dated 21.6.1985 and by virtue of this sale deed the plaintiffs claim to be the owners of the suit property. The defendants, though have claimed that Babaji Tulshiram and Babaji Nathu are two separate persons, they have not brought any material in support of this contention. There is nothing on record to even suggest that a person by name Babaji Nathu exists. Moreover, the defendants have also failed to produce on record a copy of the sale deed allegedly executed by Babaji Nathu in their favour, apart from the fact that the said sale deed was admittedly not registered. In my opinion, the findings recorded by the courts below, are based on evidence on record and deserve no interference by this Court in this Second Appeal. In the circumstances, the Second Appeal is dismissed. As a consequence thereof, the civil application stands disposed of.

(D.B.BHOSALE,J.)